

## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

### **Emergency Solutions Grants (ESG) Program; Solicitation of Comment on Specific Issues**

#### **Outline of Notice**

## **I. INTRODUCTION**

### **A. Background**

#### **1. Reasons for Re-Opening Public Comment Period**

#### **2. Statutory and Regulatory Changes Affecting the ESG Program:**

- a. MAP-21
- b. VAWA 2013
- c. OMB OmniCircular
- d. Equal Access rule
- e. Definition of Chronically Homeless
- f. HMIS final rule

### **B. How to Read this Notice**

## **II. AREAS OF THE CONSOLIDATED PLAN AND ESG INTERIM RULE ON WHICH HUD SEEKS ADDITIONAL PUBLIC COMMENT**

### **A. Definitions**

#### **1. At risk of homelessness (§§ 91.5 and 576.2)**

#### **2. Emergency shelter (§§ 91.5 and 576.2):**

- a. Adding “building or portion of a building.”
- b. Clarifying that occupancy in an emergency shelter must not create any rights of tenancy under state or local law.
- c. Establishing a clearer distinction between emergency shelter and transitional housing, including removing “leases or occupancy agreements” from the definition.
- d. Removing or altering the concept of “grandfathering in” projects in the interim rule.
- e. Ensuring that emergency shelters are placed in locations that are not inconsistent with an area’s zoning and building code.
- f. Other comments.

**3. Local government and State (Instrumentalities) (§576.2):**

- a. Instrumentality of a State
- b. Instrumentality of a local government

**4. Project (§576.2)**

**5. Rapid Re-housing (§§ 91.5)**

**B. Request for comment on the amendments to Consolidated Submissions for Community Planning and Development (CPD) Programs (24 CFR part 91)**

**1. Submission of Action Plans – Timing (§ 91.15 and §91.115)**

**2. Reimbursement for Pre-Agreement Costs in the Entitlement Community Development Block Grant (CDBG) Program (§570.200(h))**

**3. Area-Wide Systems Coordination Requirements – Consultation and Coordination (§91.100(a)(2) and (d), §91.110(b) and (e), §576.400(a), (b), and (c))**

**4. Housing and Homeless Needs Assessment (§91.205 and §91.305):**

- a. “Nearing the termination of rapid re-housing assistance” (§91.205(b)(1)(i)(K) and §91.305(b)(1)(i)(K))
- b. Estimating needs for States (§91.305(b)(1)(i))
- c. Estimation of homeless data (§91.305(c)(i) and §91.205(c)(i))
- d. Scope of Consolidated Plan Data for States (§91.305)
- e. Funding services to people on tribal lands (§§91.205, 91.305)
- f. States’ use of HMIS and PIT data (§91.305(c)(1))
- g. Coordination between the Con Plan jurisdiction and CoC on Planning (24 CFR 91.100(a)(2)(i) and 91.110(b)(1))

**5. Process for Making Subawards (§§ 91.220(l)(4)(iii) and 91.320(k)(3)(iii))**

**6. Written Standards for ESG Recipients (§ 91.220(l)(4) and §91.320(k)(3), and § 576.400(e))**

**7. HUD Approval of Action Plans (§ 91.500)**

**8. Performance Reports Related to Homelessness for ESG Recipients (§ 91.520(g))**

**C. Request for comment on Emergency Solutions Grants Program regulations  
(24 CFR part 576)**

**1. Emphasis on Rapid Re-housing**

**2. Street Outreach and Emergency Shelter Components (§ 576.101 and § 576.102):**

- a. Essential services under the Emergency Shelter Component (§ 576.102(a))
- b. “Unavailable” and “Inaccessible” Services (§ 576.101(a) and § 576.102(a))
- c. Day shelters (§ 576.102(a))
- d. Involuntary family separation (§ 576.102(b))
- e. Fees in emergency shelters (§ 576.102)
- f. Minimum Period of Use–Street Outreach component (§ 576.101(b))
- g. Minimum Period of Use–Emergency Shelter component (§ 576.102(c)).
- h. Essential Services for Street Outreach, Case Management (§ 576.101(a)(2)) and Emergency Shelter, Case Management (obtaining identification documents) (§ 576.102(a)(1)(i))
- i. Local Residency Requirements

**3. Rapid Re-housing component (defining “rapid” and “as quickly as possible”) (§ 576.104)**

**4. Housing Relocation and Stabilization Services (§ 576.105):**

- a. Late fees
- b. Court costs (§576.105(b)(4))
- c. Trash removal (§ 576.105(a)(5))
- d. Mediation (§ 576.105(b)(3))
- e. Broker fees (§ 576.105(b)(1))
- f. Housing Stability Case Management (§576.105(b)(2))
- g. Credit reports (§ 576.105(b)(5) and § 576.105(b)(2))

**5. Short-Term and Medium-Term Rental Assistance (§ 576.106):**

- a. Rental assistance in shared housing – general
- b. Rental assistance in shared housing – FMR
- c. Rent restrictions (Fair Market Rent) (§ 576.106(d))
- d. Last month’s rent, security deposits, and rental arrears (§§ 576.105(a) and 576.106)
- e. Providing subrecipients with discretion to set caps and conditions (§ 576.106(b))
- f. Rental Assistance Agreement requirements (§ 576.106(e))

- g. Lease (§ 576.106(g))
- h. Using ESG funds for an unoccupied unit
- i. Advance payments of rental assistance (§576.105(a)(3))
- j. Subleasing
- k. Tenant-based rental assistance (TBRA) (§576.106(h))
- l. Project-based rental assistance (PBRA) (§ 576.106(i))

**6. Administrative Activities (§ 576.108) and Indirect Costs (§ 576.109):**

- a. Training
- b. Other comments

**7. Submission Requirements and Grant Approval (Joint Agreements) (§576.200):**

- a. Coordination with CDBG
- b. Timing of the joint agreement
- c. Lead entity responsibilities
- d. Cooperation agreement
- e. Requirements of the joint request
- f. Approval of the joint request
- g. Consolidated Plan requirements
- h. Grant amount total
- i. ESG subrecipient

**8. Matching Requirement (§576.201):**

- a. Additional sources of matching contributions
- b. Cash match
- c. Noncash contributions (depreciation of donated buildings) (§ 576.201(d)(2))
- d. Memorandum of understanding for noncash services as match
- e. When to count matching funds
- f. Other programs as match for ESG

**9. Obligation, Expenditure, and Payment Requirements (§ 576.203(a)(i)):**

- a. State as HMIS lead
- b. Exceptions
- c. Subrecipient agreements

**10. Pre-Award Costs (§ 576.204)**

**11. Reallocations (§§ 576.301, 576.302, and 576.303):**

- a. Timeframe for substantial amendments (§576.301(c), §576.302(c), and §576.303(d))
- b. Reallocation of State ESG funds (§576.302)
- c. Reallocation of local government ESG funds (§576.301(d))

**12. Area-Wide Systems Coordination Requirements – Consultation and Coordination (§91.100(a)(2) and (d), §91.110(b) and (e), §576.400(a), (b), and (c)):**

- a. ESG recipient Consultation with Continuums of Care (§576.400(a))
- b. Defining “consultation,” “coordinating,” and “integrating.”
- c. Improving collaboration between ESG recipients and CoCs
- d. Consulting with tribal groups
- e. Requiring coordination with CoC and Rural Housing Stability Programs (§576.400(b))
- f. Other feedback

**13. Area-Wide Systems Coordination Requirements – Coordinated Assessment (§ 576.400(d)):**

- a. Coordinated entry for walk-ins
- b. Coordinated entry and Street Outreach

**14. Area-Wide Systems Coordination Requirements – Written Standards for ESG Recipients (§§ 91.220(l)(4) and 91.320(k)(3), and 576.400(e)):**

- a. When subrecipients receive ESG funds from multiple recipients
- b. Asset policy
- c. Written standards for subrecipients of local governments
- d. Other feedback
- e. Written standards for projects
- f. Limiting eligibility and targeting ESG assistance

**15. Evaluation of Program Participant Eligibility and Needs (§ 576.401):**

- a. Initial evaluations (§ 576.401(a))
- b. Housing stability case management requirements (§ 576.401(e)(i))

**16. Shelter and Housing Standards (§ 576.403):**

- a. Essential services only (emergency shelters)

- b. Housing Relocation and Stabilization Services only (Homelessness Prevention assistance to remain in unit)
- c. Housing Quality Standards

**17. Conflicts of Interest (§ 576.404):**

- a. Organizational conflicts of interest (§ 576.404(a))
- b. Individual conflicts of interest (§ 576.404(b))

**18. Other Federal Requirements – Limiting Eligibility and Targeting (§ 576.407):**

- a. Rapid Re-housing and Homelessness Prevention
- b. Emergency shelters

**19. Recordkeeping and Reporting Requirements (§ 576.500):**

- a. At risk of homelessness (§ 576.500(c)(1)(iv))
- b. Determinations of ineligibility – Street Outreach (§ 576.500(d))
- c. Maintenance of effort recordkeeping requirement (§ 576.500(l))
- d. Records of services and assistance provided (§ 576.500(l))
- e. Period of record retention (§ 576.500(y)(2) and (3))

**20. Recipient Sanctions (§ 576.501(c))**